

**From:** Randy Smothers  
**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

I have been a information systems developer, software programmer and software user for more than 25 years. Based on my experience and my reading of the "Proposed Final Judgement" (PFJ) in United States vs. Microsoft, I am concerned that the PFJ is significantly flawed and insufficient to correct existing monopolistic practices on the part of Microsoft, let alone deter the continuation of such practices in the future.

In particular, I am concerned that the PFJ does not correctly define the terms "API" and "Microsoft Middleware" and therefore fails to implement protections against Microsoft's continued use of the Windows APIs to maintain or even increase the "Applications Barrier to Entry" cited by the Trial and Appeals courts.

Through arbitrary, capricious and often unannounced changes in the Windos APIs and by withholding the full documentation of many Windows APIs and any documentation at all of others, Microsoft has long been able to suppress efforts by other software developers to create applications software that is competitive with software offered by Microsoft in terms of features and/or performance.

Similarly, by not having to clearly and publicly identify the patents applicable to its Windows APIs, Microsoft is able to use vague threats of "patent infringement" to inhibit the development and adoption of competing applications.

Having been successful at ensuring the Windows operating system is ubiquitously present in homes, educational institutions, businesses and government offices throughout the USA and much of the rest of the world, Microsoft has shown no reluctance to use that presence to monopolistic advantage whenever it has decided to offer its own product in any area of computing applications.

Absent meaningful provisions forcing Microsoft to provide equal and fair access to the Windows APIs, the Proposed Final Judgement fails to adequately address the issue of Microsoft's enhanced Applications Barrier to Entry and as a result also fails to serve the interests of the public through enhancement of the competitive environment for software in the Intel-based computer industry.

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Note: The opinion(s) or view(s) expressed above are my own and are not intended to represent those of my employer.